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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,908	03/15/2004	Martin Schamberg	PO-7955/HE-178	1492
157	7590	10/13/2006	EXAMINER	
BAYER MATERIAL SCIENCE LLC			COONEY, JOHN M	
100 BAYER ROAD			ART UNIT	
PITTSBURGH, PA 15205			PAPER NUMBER	

1711

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,908

Applicant(s)

SCHAMBERG ET AL.

Examiner

John m. Cooney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2 shits.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Election/Restrictions

Applicant's election without traverse of Group II. (claims 17-35) in the reply filed on 7-21-06 is acknowledged.

Claims 1-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7-21-06.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites the limitation "the filler" in lines 7 and 8. There is insufficient antecedent basis for this limitation in the claim. There are no required provisions for introduction of filler in the claims, and beginning at element (5) the elements for manipulation of the filler are without antecedent basis in the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eiben et al.(5,789,457) in view of Sulzbach et al.(5,547,276), Davis et al.(5,527,462), and WO 02/04190.

Eiben et al. disclose apparatuses for the continuous production of polyurethane foam wherein vessels for introducing isocyanate, polyol, liquid carbon dioxide, and other additives (arrow 8) are provided for, a means for transporting the components to a main mixing component, a means mixing carbon dioxide with at least one of the reactive components prior to introduction to the main mixer, and a discharge body which includes at least one fine mesh screen of dimensions as claimed arranged downstream from the main mixer (see abstract, figures, description of figures, and column 1 line 6 – column 6 line 17, as well as, the entire document).

Eiben et al. differs from the claims in that means for introducing and treating filler are not particularly required. However, Sulzbach et al. discloses devices for controlling the mixing of fillers into the reactive materials in polyurethane synthesis operations for the purpose of achieving continuous mixing of metered filler and reactive material (see abstract, and column 2 line 65 – column 3 line 14, as well as, the entire document). Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the filler providing devices of Sulzbach et al. in the apparatuses provided for by Eiben et al. for the purpose of provisioning for the continuous mixing and introduction of filler in order to arrive at the apparatuses of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results. Additionally, it is

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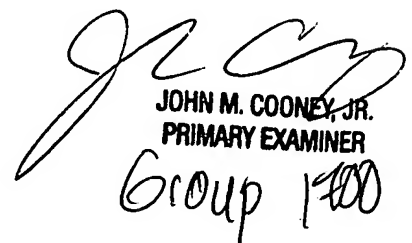
held that elements for treatment of the filler by filters for purpose of imparting their filtering effect is within the purview of the ordinary practitioner in the art, and mechanical self-cleaning filters such as those disclosed by Davis et al.(see the entire document) would have been obvious to one having ordinary skill in the art for the purpose of achieving in-process filter cleaning. Also, agglomerate reducers such as those disclosed by WO 02/04190 (see the entire document) are known to the art for purposes of enhancing material flow, and their employment in the apparatuses of Eiben et al. for the purpose of imparting this effect would have been obvious to one having ordinary skill in the art with the expectation of success in the absence of a showing of new or unexpected results.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Macdonald (4,938,825) and Sulzbach (5,152,943) are cited for their disclosure of relevant materials and elements in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOHN M. COONEY, JR.
PRIMARY EXAMINER
Group 100